

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In Re Pharmaceutical Industry Average Wholesale Price Litigation,

No. MDL Docket No. 1456

CIVIL ACTION: 01-CV-12257-PBS

This Document Relates to The Master Consolidated Class Action

Judge Patti B. Saris

**ANSWER OF SICOR INC.
AND SICOR PHARMACEUTICALS, INC.
(FORMERLY “GENSIA SICOR PHARMACEUTICALS, INC.”)
TO THE AMENDED MASTER CONSOLIDATED
CLASS ACTION COMPLAINT**

Defendants Sicor Inc. and Sicor Pharmaceuticals Inc. (collectively “Sicor”) for their Answer to the Amended Master Consolidated Class Action Complaint (“AMCC”) state as follows

I. INTRODUCTION

1. Sicor admits that this case is brought as a purported class action on behalf of individuals and entities against the defendants. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 1 of the AMCC and specifically denies that this action may be properly brought as a class action.

2. To the extent the allegations contained in Paragraph 2 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 2 that pertains to Sicor, and specifically denies that it has conspired with anyone.

3. To the extent the allegations contained in Paragraph 3 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 3 that pertains to Sicor, and specifically denies that it has inflated its AWP reimbursement rates.

4. To the extent the allegations contained in Paragraph 4 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations.

Sicor denies each and every allegation contained in Paragraph 4 that pertains to Sicor, and specifically denies that it has offered unlawful financial inducements to healthcare providers.

5. To the extent the allegations contained in Paragraph 5 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 5 that pertains to Sicor, and specifically denies that it has participated in any “AWP scheme.”

6. Sicor admits plaintiffs purport to bring this action as a class action, but denies that they are entitled to do so. To the extent the allegations contained in Paragraph 6 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 6 that pertains to Sicor.

7. To the extent the allegations contained in Paragraph 7 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 7 that pertains to Sicor, and specifically denies that Sicor has engaged in any “high profit scheme.”

8. To the extent the allegations contained in Paragraph 8 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations.

Sicor denies each and every allegation contained in Paragraph 8 that pertains to Sicor, and specifically denies that it has participated in any “scheme” or “unlawful agreement to fix the AWP spread.”

9-10. The allegations contained in Paragraphs 9 and 10 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 9 and 10 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

11. Sicor admits that plaintiffs have attached Exhibit A, Appendix A and Appendix B to the AMCC. To the extent the allegations contained in Paragraph 11 of the AMCC are deemed to include allegations concerning the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations contained in Paragraph 11 of the AMCC are deemed to include allegations against Sicor, Sicor denies those allegations.

12. Count I was dismissed by order of this Court dated February 25, 2004, and accordingly no response to Paragraph 12 of the AMCC is required. To the extent that Sicor is required to respond, Sicor denies each and every allegation contained in Paragraph 12.

13. Sicor admits that in Count II Plaintiffs purport to assert claims under 18 U.S.C. 1962(c), but denies that they are entitled to do so. Except as so admitted and denied, to the extent the allegations contained in Paragraph 13 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in

Paragraph 13; to the extent the allegations contained in Paragraph 13 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that Sicor has engaged in a pattern of racketeering.

14. Sicor admits that in Count III Plaintiffs purport to assert claims for declaratory relief. Except as so admitted, to the extent the allegations contained in Paragraph 14 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 14; to the extent the allegations contained in Paragraph 14 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that Plaintiffs are entitled to declaratory relief as to Sicor.

15. Sicor admits that in Count IV Plaintiffs purport to assert claims under various state laws. Except as so admitted, to the extent the allegations contained in Paragraph 6 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 15; to the extent the allegations contained in Paragraph 15 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that Sicor has violated state consumer protection laws.

16-19. The allegations contained in Paragraphs 16 through 19 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 16 through 19 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

20. Sicor admits that in Count IX Plaintiffs purport to assert claims of civil conspiracies. Except as so admitted, to the extent the allegations contained in Paragraph 20 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 20; to the extent the allegations contained in Paragraph 20 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that it has engaged in any civil conspiracies.

21. The allegations contained in Paragraph 21 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraph 21 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

II. JURISDICTION AND VENUE

22. Sicor admits that this Court has subject matter jurisdiction, and, upon information and belief, Sicor admits that diversity jurisdiction exists. Except as so admitted, to the extent the allegations contained in Paragraph 22 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 22; to the extent the allegations contained in Paragraph 22 pertain to Sicor, Sicor denies each and every allegation.

23. Sicor admits that this Court has supplemental jurisdiction over the state law claims. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 23 of the AMCC.

24. Sicor admits that venue is proper in this jurisdiction. Except as so admitted, to the extent the allegations contained in Paragraph 24 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 24; to the extent the allegations contained in Paragraph 24 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that Sicor has engaged in any fraudulent marketing scheme.

25. Sicor admits the allegations contained in Paragraph 25 of the AMCC.

III. PARTIES

26. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the AMCC.

27. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the AMCC.

28. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the AMCC.

29. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the AMCC.

30. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of the AMCC.

31. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of the AMCC.

32. Sicor admits that Plaintiff Vermont Public Interest Research Group purports to bring this action as alleged in Paragraph 32 of the AMCC, but denies that it has standing to bring this action. Except as so admitted and denied, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the AMCC.

33. Sicor admits that Plaintiff Wisconsin Citizen Action purports to bring this action as alleged in Paragraph 33 of the AMCC, but denies that it has standing to bring this action. Except as so admitted and denied, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the AMCC.

34. Sicor admits that Plaintiff New York StateWide Senior Action Council purports to bring this action as alleged in Paragraph 34 of the AMCC, but denies that it has standing to bring this action. Except as so admitted and denied, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the AMCC.

35. Sicor admits that Plaintiff Citizen Action of New York purports to bring this action as alleged in Paragraph 35 of the AMCC, but denies that it has standing to bring this action. Except as so admitted and denied, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of the AMCC.

36. Sicor admits that Plaintiff Citizens for Consumer Justice purports to bring this action as alleged in Paragraph 36 of the AMCC, but denies that it has standing to bring this action. Except as so admitted and denied, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the AMCC.

37. To the extent the allegations contained in Paragraph 37 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 37 that pertains to Sicor.

38. To the extent the allegations contained in Paragraph 38 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 38 that pertains to Sicor.

39-119. The allegations contained in Paragraphs 39 through 119 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 39 through 119 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

120. Sicor admits the allegations contained in Paragraph 120 of the AMCC.

121. Sicor admits the allegations contained in Paragraph 121 of the AMCC.

122. Sicor admits the allegations contained in Paragraph 122 of the AMCC.

123. Sicor admits the allegations contained in Paragraph 123 of the AMCC.

124. Sicor admits that it manufactures tobramycin sulfate and amikacin sulfate and that those drugs have been at times covered by Medicare Part B. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 124 of the AMCC.

125-131. The allegations contained in Paragraphs 125 through 131 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 125 through 131 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

IV. GENERAL ALLEGATIONS APPLICABLE TO ALL DEFENDANTS

132. To the extent the allegations contained in Paragraph 132 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 132 that pertains to Sicor.

133. Upon information and belief, Sicor admits the allegations contained in Paragraph 133 of the AMCC.

134. Sicor admits that providers may submit claims for reimbursement for drugs to Medicare other insurers and patients. Except as so admitted, to the extent the allegations contained in Paragraph 134 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 134; to the extent the allegations contained in Paragraph 134 pertain to Sicor, Sicor denies each and every allegation.

135. Sicor admits the existence of the *Drug Topics Red Book*, *American Druggist First Databank Annual Director of Pharmaceuticals* and *Essential Director of Pharmaceuticals* and the *Master Drug Databases* and that they are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 135 of the AMCC.

136. Sicor admits the existence of the June 1996 Dow Jones article and the forward to the 1999 *Red Book* and that they are the best evidence of their contents. Except as so admitted, to the extent the allegations contained in Paragraph 136 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 136; to the extent the allegations contained in Paragraph 136 pertain to Sicor, Sicor denies each and every allegation.

137. Sicor admits that it took steps to maintain the confidentiality of trade secrets and other confidential proprietary or business information. Except as so admitted, to the extent the allegations contained in Paragraph 137 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 137; to the extent the allegations contained in Paragraph 137 pertain to Sicor, Sicor denies each and every allegation, and specifically denies that it has forwarded any “phony” AWP to Publishers.

138. To the extent the allegations contained in Paragraph 138 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 138 that pertains to Sicor.

139. To the extent the allegations contained in Paragraph 139 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 139 that pertains to Sicor.

140. To the extent the allegations contained in Paragraph 140 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 140 that pertains to Sicor, and specifically denies that it has acted fraudulently or has participated in any “AWP Scheme.”

141. To the extent the allegations contained in Paragraph 141 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 141 that pertains to Sicor.

142. Sicor admits the allegations contained in Paragraph 142 of the AMCC.

143. Sicor admits the allegations contained in Paragraph 143 of the AMCC.

144. Sicor admits the statutes and regulations governing the Medicare program and that they are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 144 of the AMCC.

145. Sicor admits the statutes and regulations governing the Medicare program and that they are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 145 of the AMCC.

146. Sicor admits the statutes and regulations governing the Medicare program and that they are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 146 of the AMCC.

147. Sicor admits 42 C.F.R. § 405.517 and that it is the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 147 of the AMCC.

148. Sicor admits the existence of Program Memorandum AB-99-63 and that it is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 148 of the AMCC.

149. Sicor admits the existence of Program Memorandum AB-99-63 and that it is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 149 of the AMCC.

150. Sicor admits the statutes and regulations governing the Medicare program and that they are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 150 of the AMCC.

151. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 151 of the AMCC.

152. Sicor admits that it does not send AWP's directly to the federal government, but does send other pricing information to the federal government as required by law; Sicor admits and avers that publishing companies calculate and publish AWP's for its drugs based in part on information provided by Sicor, and that the published AWP's may be used by government or private health plans; Sicor admits the statutes and regulations governing the Medicare and Medicaid programs, which are the best evidence of their contents. Except as so admitted, to the extent the allegations contained in Paragraph 152 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 152; to the extent the allegations contained in Paragraph 152 pertain to Sicor, Sicor denies each and every allegation.

153. Sicor admits the existence of the April 2003 OIG report, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 153 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 153; to the extent the allegations contained in Paragraph 153 pertain to Sicor, Sicor denies each and every allegation.

154. Sicor admits the existence of the April 2003 OIG report, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 154 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief

as to the truth of the other allegations contained in Paragraph 154; to the extent the allegations contained in Paragraph 154 pertain to Sicor, Sicor denies each and every allegation.

155. Sicor admits that certain federal and state governmental agencies, including the Department of Justice and the Department of Health and Human Services (“DHHS”) have been investigating issues surrounding pricing information reported by drug manufacturers, including Sicor. Except as so admitted, to the extent the allegations contained in Paragraph 155 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 155; to the extent the allegations contained in Paragraph 155 pertain to Sicor, Sicor denies each and every allegation.

156. Sicor admits the existence of the letter dated September 28, 2000, from Congressman Stark, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 156 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 156; to the extent the allegations contained in Paragraph 156 pertain to Sicor, Sicor denies each and every allegation.

157. Sicor admits the existence of the letter dated September 28, 2000 from Congressman Stark, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 157 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in

Paragraph 157; to the extent the allegations contained in Paragraph 157 pertain to Sicor, Sicor denies each and every allegation.

158. Sicor admits that the Department of Justice and the Department of Health and Human Services have been investigating issues surrounding pricing information reported by drug manufacturers, including Sicor. Sicor is without knowledge or information sufficient to form a belief as to whether those activities are ongoing.

159. To the extent the allegations contained in Paragraph 159 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 159 that pertains to Sicor, and specifically denies that it has perpetuated any fraudulent scheme.

160. Sicor admits submitting pricing information to publishing companies regarding Sicor's products. Except as so admitted, to the extent the allegations contained in Paragraph 160 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 160.

161. To the extent the allegations contained in Paragraph 161 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 161 that pertains to Sicor, and specifically denies that it has artificially inflated AWP's so that providers' profits would increase.

162. To the extent the allegations contained in Paragraph 162 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 162 that pertains to Sicor, and specifically denies that it has artificially inflated providers' profits to create an illegal kickback to them..

163. To the extent the allegations contained in Paragraph 163 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 163 that pertains to Sicor and specifically denies that it engaged in a "scheme" to have providers charge inflated AWP's.

164. To the extent the allegations contained in Paragraph 164 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 164 that pertains to Sicor.

165. To the extent the allegations contained in Paragraph 165 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 165 that pertains to Sicor.

166. To the extent the allegations contained in Paragraph 166 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is

without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 166 that pertains to Sicor.

167. To the extent the allegations contained in Paragraph 167 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 167 that pertains to Sicor.

168. To the extent the allegations contained in Paragraph 168 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 168 that pertains to Sicor, and specifically denies that it has engaged in fraud.

169. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 169 of the AMCC.

170. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 170 of the AMCC.

171. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 171 of the AMCC .

172. To the extent the allegations contained in Paragraph 172 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations.

Sicor denies each and every allegation contained in Paragraph 172 that pertain to Sicor and specifically denies that it has artificially inflated the PBMs' profits to create an illegal kickback to the PBMs.

173. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 173 of the AMCC .

174. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 174 of the AMCC.

175. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 175 of the AMCC.

176. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 176 of the AMCC.

177. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 177 of the AMCC.

178. Sicor admits the existence of the March 30, 2003 WALL STREET JOURNAL article, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 178 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations; Sicor denies each and every allegation contained in Paragraph 178 that pertains to Sicor.

179. To the extent the allegations contained in Paragraph 179 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 179 that pertains to Sicor, and specifically denies that it has engaged in fraud.

180. Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 180 of the AMCC.

181. Sicor admits the existence of the CMS MAC price list, which is the best evidence of its contents. Except as so admitted, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 181 of the AMCC.

182. Sicor admits the existence of the CMS MAC price list, which is the best evidence of its contents. Except as so admitted, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 182 of the AMCC.

183. To the extent the allegations contained in Paragraph 183 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 183 that pertains to Sicor.

184. To the extent the allegations contained in Paragraph 184 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 184 that pertains to Sicor.

185. To the extent the allegations contained in Paragraph 185 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 185 that pertains to Sicor.

186. To the extent the allegations contained in Paragraph 186 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 186 that pertains to Sicor, and specifically denies that it has reported fraudulent AWP.

187. To the extent the allegations contained in Paragraph 187 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 187 that pertains to Sicor.

188. To the extent the allegations contained in Paragraph 188 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 188 that pertains to Sicor, and specifically denies that it has engaged in fraudulent AWP manipulation.

189. Sicor admits the existence of the Dey Complaint, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 189 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than

Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations; Sicor denies each and every allegation contained in Paragraph 189 that pertains to Sicor.

190. Sicor admits the existence of the Dey Complaint, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 190 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations; Sicor denies each and every allegation contained in Paragraph 190 that pertains to Sicor.

191. To the extent the allegations contained in Paragraph 191 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 191 that pertains to Sicor, and specifically denies that it has engaged in fraudulent conduct.

192. Sicor admits that it took steps to maintain the confidentiality of trade secrets and other confidential or proprietary business information including drug pricing, and admits the existence of the CMS Health Care Industry Market Update of January 10, 2003, which is the best evidence of its contents. Except as so admitted, to the extent the allegations contained in Paragraph 192 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations; Sicor denies each and every allegation contained in Paragraph 192 that pertains to Sicor.

193. To the extent the allegations contained in Paragraph 193 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 193 that pertains to Sicor, and specifically denies that it has engaged in fraudulent conduct.

194. To the extent the allegations contained in Paragraph 194 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 194 that pertains to Sicor.

195. To the extent the allegations contained in Paragraph 195 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 195 that pertains to Sicor, and specifically denies that it has engaged in fraudulent conduct, knowingly or otherwise.

196. To the extent the allegations contained in Paragraph 196 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 196 that pertains to Sicor.

197. Sicor denies each and every allegation contained in Paragraph 197 of the AMCC.

198. Sicor denies each and every allegation contained in Paragraph 198 of the AMCC.

199. Sicor denies each and every allegation contained in Paragraph 199 of the AMCC.

V. EXAMPLES OF SPECIFIC UNLAWFUL CONDUCT

200. To the extent the allegations contained in Paragraph 200 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 200 that pertains to Sicor, and specifically denies that it has engaged in unlawful conduct.

201–491. The allegations contained in Paragraphs 201 through 491 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 201 through 491 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

492. Sicor admits that Sicor sells or has sold the products identified in Appendix A and Paragraph 492 and that they can be used as described. Sicor denies each and every other allegation contained in Paragraph 492 of the AMCC, and specifically denies that it has engaged in a deliberate scheme to inflate its AWP or stated fraudulent AWP for its drugs.

493. Sicor admits that the certain federal and state governmental agencies, including the Department of Justice and the DHHS have been investigating issues surrounding pricing information reported by drug manufacturers, including Sicor, and used in the calculation of reimbursements under the Medicaid program and under the Medicare program. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 493 of the AMCC and specifically denies that it has engaged in a scheme to inflate AWP.

494. Sicor admits the existence of the letters dated February 21, 1994, from Gensia to Medispan, which are the best evidence of their contents. Sicor denies each and every other allegation contained in Paragraph 494 of the AMCC.

495. Sicor admits the existence of the Gensia memorandum to “Field Sales Force” dated April 6, 1994, which is the best evidence of its contents. Sicor denies each and every other allegation contained in Paragraph 495 of the AMCC.

496. Sicor admits the existence of the letter dated September 25, 2000 from the Chairman of the Commerce Committee to the HCFA Administrator, which is the best evidence of its contents. Except as so admitted, denies each and every allegation contained in Paragraph 496 of the AMCC, and specifically denies that it has engaged in a scheme to inflate AWP.

497. Sicor admits the existence of the document, which is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 497 of the AMCC, and specifically denies that it has engaged in fraudulent practices.

498. Sicor admits the existence of the document, which is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 498 of the AMCC.

499. Sicor admits the existence of the document, which is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 499 of the AMCC.

500. Sicor admits the existence of the documents, which are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 500 of the AMCC.

501. Sicor admits the existence of the DHHS report and the 2001 *Redbook*, which are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 501 of the AMCC.

502. Sicor admits the existence of the Medi-Span document, which is the best evidence of its contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 502 of the AMCC.

503. Sicor admits the existence of the documents, which are the best evidence of their contents. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 503 of the AMCC.

504. Sicor denies each and every allegation contained in Paragraph 504 of the AMCC, and specifically denies that it has used impermissible inducements to stimulate sales of its drugs.

505. Sicor denies each and every allegation contained in Paragraph 505 of the AMCC, and specifically denies that it has engaged in a scheme to inflate its reported AWP.

506-540. The allegations contained in Paragraphs 506 through 540 of the AMCC are directed to another defendant and require no response from Sicor. To the extent that the allegations of Paragraph 506 through 540 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

**VI. DIRECT DAMAGE SUSTAINED BY PLAINTIFFS
AND THE MEMBERS OF THE AWP CLASS**

541. To the extent the allegations contained in Paragraph 541 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 541 that pertains to Sicor, and specifically denies that in has participated in any fraudulent scheme.

**VII. CERTAIN DEFENDANTS USE AWP TO ENGAGE IN
A SCHEME TO FIX PRICES – THE TOGETHER CARD SCHEME**

542-594. The allegations contained in Paragraphs 542 through 594 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 542 through 594 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

VIII. CLASS ACTION ALLEGATIONS FOR THE AWP PAYOR SCHEME

595. Sicor admits that Plaintiffs purport to bring this action as a putative class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 595 of the AMCC, and specifically denies that this action may be properly brought as a class action.

596. Sicor admits that Plaintiffs seek to recover for alleged conduct dating from January 1, 1991 to the present. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 596 of the AMCC, and specifically denies that this action may be properly brought as a class action.

597. Sicor admits that the putative class consists of individuals and entities. Except as so admitted, Sicor denies each and every allegation contained in Paragraph 597 of the AMCC, and specifically denies that this action may be properly brought as a class action.

598. Sicor denies each and every allegation contained in Paragraph 598 of the AMCC.

599. Sicor denies each and every allegation contained in Paragraph 599 of the AMCC.

600. Sicor denies each and every allegation contained in Paragraph 600 of the AMCC.

601. Sicor denies each and every allegation contained in Paragraph 601 of the AMCC.

602. Sicor denies each and every allegation contained in Paragraph 602 of the AMCC.

603. Sicor denies each and every allegation contained in Paragraph 603 of the AMCC.

IX. CLASS ACTION ALLEGATIONS FOR THE TOGETHER CARD SCHEME

604-618. The allegations contained in Paragraphs 604 through 618 of the AMCC are directed to other defendants and require no response from Sicor. To the extent that the allegations of Paragraphs 604 through 618 are deemed to include allegations against Sicor, Sicor denies each and every allegation.

COUNT I

VIOLATIONS OF 18 U.S.C. § 1962(C)

619-646. Count I was dismissed by order of this Court dated February 25, 2004, and accordingly no response to Paragraphs 619 through 646 of the AMCC is required. To the extent that Sicor is required to respond, Sicor denies each and every allegation contained in Paragraph 12 that pertains to Sicor; to the extent the allegations contained in Paragraphs 619 through 646 of

the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations.

COUNT II
VIOLATIONS OF 18 U.S.C. § 1962(C)

647. In answer to Paragraph 647, Sicor incorporates by reference Paragraphs 1 through 646 of this Answer.

648. In answer to Paragraph 648, Sicor admits that the AWP Class representatives purport to assert claims under 18 U.S.C. § 1962(c). Except as so admitted, Sicor denies each and every allegation contained in Paragraph 648 of the AMCC, and specifically denies that Sicor has violated 18 U.S.C. § 1962(c).

649. The allegations contained in Paragraph 649 of the AMCC state a legal conclusion to which no answer is required. Sicor denies, however, that Plaintiffs have pled a proper class.

650. To the extent the allegations contained in Paragraph 650 of the AMCC state a legal conclusion no answer is required. Sicor is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 650.

651. To the extent the allegations contained in Paragraph 651 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 651 that pertains to Sicor.

652. To the extent the allegations contained in Paragraph 652 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 652 that pertains to Sicor.

653. To the extent the allegations contained in Paragraph 653 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 653 that pertains to Sicor.

654. To the extent the allegations contained in Paragraph 654 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 654 that pertains to Sicor.

655. To the extent the allegations contained in Paragraph 655 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 655 that pertains to Sicor.

656. To the extent the allegations contained in Paragraph 656 of the AMCC refer to the knowledge, conduct or actions of persons, entities or defendants other than Sicor, Sicor is without knowledge or information sufficient to form a belief as to the truth of the allegations. Sicor denies each and every allegation contained in Paragraph 656 that pertains to Sicor.